

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Simon Wang	Team: Squad #6	CCRB Case #: 201810270	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Saturday, 12/08/2018 3:00 AM	Location of Incident: § 87(2)(b)	Precinct: 18	18 Mo. SOL 6/8/2020	EO SOL 1/23/2021	
Date/Time CV Reported Tue, 12/11/2018 2:38 AM	CV Reported At: CCRB	How CV Reported: On-line website	Date/Time Received at CCRB Tue, 12/11/2018 2:38 AM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Witness(es)	Home Address
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. POM Tamer Sergany	02409	961271	MTN PCT
2. POM Gerard Scparta	31201	964760	MTN PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Tamer Sergany	Abuse: Police Officer Tamer Sergany threatened to arrest § 87(2)(b)	§ 87(2)(b)
B.POM Gerard Scparta	Abuse: Police Officer Gerard Scparta threatened to arrest § 87(2)(b)	§ 87(2)(b)

## Case Summary

On December 11, 2018, § 87(2)(b) filed this complaint online with the CCRB.

On December 8, 2018, at approximately 3:00 a.m. § 87(2)(b) was visiting his girlfriend § 87(2)(b) at her apartment at § 87(2)(b) in Manhattan. § 87(2)(b)'s roommate called the police and PO Tamer Sergany and PO Gerard Scparta of the 18<sup>th</sup> Precinct responded to the apartment. PO Sergany and PO Scparta threatened to arrest § 87(2)(b) and § 87(2)(b) if they did not leave the apartment (**Allegations A and B: Abuse of Authority** – § 87(2)(b) § 87(2)(b) and § 87(2)(b) both left the apartment and the officers left.

There was no video of this incident. § 87(2)(b) recorded audio of a portion of this interaction on his cell phone.

## Findings and Recommendations

### **Allegation (A) Abuse of Authority: Police Officer Tamer Sergany threatened to arrest**

§ 87(2)(b) and § 87(2)(b)

### **Allegation (B) Abuse of Authority: Police Officer Gerard Scparta threatened to arrest**

§ 87(2)(b) and § 87(2)(b)

§ 87(2)(g). It is undisputed that PO Sergany and PO Scparta threatened to arrest § 87(2)(b) and § 87(2)(b)

By December 8, 2018, § 87(2)(b) had resided at § 87(2)(b) for three months with her roommate § 87(2)(b). The apartment is a one bedroom apartment, converted into a two bedroom apartment. § 87(2)(b) has visited § 87(2)(b) at her apartment repeatedly at her invitation, though § 87(2)(b) objected to his visits. On December 8, 2018, § 87(2)(b) called the police alleging that § 87(2)(b) had a visitor whom she objected to. PO Sergany and PO Scparta responded to the call and § 87(2)(b) invited them into the apartment. § 87(2)(b) informed PO Sergany and PO Scparta that she was illegally subletting the apartment to § 87(2)(b) and that she objected to § 87(2)(b) having visitors. PO Sergany and PO Scparta knocked on § 87(2)(b)'s door and § 87(2)(b) and § 87(2)(b) exited the room to talk to them. § 87(2)(b) showed the officers her lease and § 87(2)(b) showed the officers the sublease. PO Sergany and PO Scparta deemed § 87(2)(b) to not be a lawful resident because the sublease was not permitted in § 87(2)(b)'s lease agreement with the landlord. They believed that § 87(2)(b) and § 87(2)(b) were therefore trespassing on § 87(2)(b)'s apartment because she was the lease holder to the apartment. Both PO Sergany and PO Scparta admit that they threatened to arrest § 87(2)(b) and § 87(2)(b) if they did not leave the apartment.

§ 87(2)(b) made an audio recording (**Board Review 1**) of a portion of their interaction on his cell phone. The audio recording was 2 minutes and 45 seconds long. At the beginning of the recording, PO Sergany and PO Scparta stated that the sublease was invalid. § 87(2)(b) stated that § 87(2)(b) has been paying 50% of the rent and that she has lived there for 3 months. PO Sergany and PO Scparta then both told § 87(2)(b) and § 87(2)(b) that they would be arrested if they did not leave the apartment. PO Sergany and PO Scparta listened to this recording during their CCRB interviews and confirmed that it was their voices in the recording.

§ 87(2)(b) and § 87(2)(b) agreed to leave the apartment and gathered their possessions. They left the apartment for the evening.

According to Patrol Guide Procedure 214-13 (**Board Review 2**), the execution of an eviction is the sole responsibility of the city marshal or sheriff. The role of a police officer at the scene of an eviction is to preserve the peace and prevent the commission of a crime. According patrol guide procedure 214-12 (**Board Review 3**), unless a Warrant of Eviction or Government Order to Vacate has been executed, it is unlawful to evict an occupant from a dwelling if that occupant has resided in a dwelling for thirty or more consecutive days.

§ 87(2)(g)

[REDACTED]

§ 87(2)(g)

[REDACTED]

#### Civilian and Officer CCRB Histories

- This is the first CCRB complaint to which § 87(2)(b) has been a party (**Board Review 4**).
- This is the first CCRB complaint to which § 87(2)(b) has been a party (**Board Review 4**).
- PO Sergany has been a member of service for three years and this is the first CCRB complaint to which he has been a subject.
- PO Scparta has been a member of service for one year and this is the first CCRB complaint to which he has been a subject.

#### Mediation, Civil and Criminal Histories

- § 87(2)(b) declined to mediate this complaint.
- As of March 22, 2019, the New York City Office of the Comptroller has no record of a Notice of claim being filed in regards to this complaint.
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]  
[REDACTED]  
[REDACTED]

